

## **DETAILED ACTION**

### ***Status of Claims***

1. This action is in reply to the application filed 9 July 2007, is a national stage entry of an application with an international filing date of 21 June 2004, and claims foreign priority to an application filed 23 June 2003.
2. **Claims 1-54** were canceled by preliminary amendment.
3. **Claims 55-108** were added by preliminary amendment, are currently pending and have been examined.

### ***Information Disclosure Statement***

4. The information disclosure statement (IDS) submitted on 2 November 2006 has been considered by the Examiner.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. **Claims 56-68, 70, 72, 78, 79, 84-88 and 92** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claims 56, 70, 72 and 92** recite the limitation *said external input*. There is insufficient antecedent basis for this limitation in the claim. It is unclear what the Applicant is referring to with this limitation. **Claims 57-68** depend on claim 56 and fail to correct this deficiency of claim 56, and are therefore also rejected under **35 USC 112**.

**Claims 60 and 65-68** contain the limitation *said third schedule information*. Claims 60 and 65-68 are multiply dependent on claims 55 or 57, or 55 or 56, respectively. There is insufficient antecedent basis for this limitation when claim 60 or claims 65-68 are dependent on claim 55. **Claim 61** is dependent on claim 60 and fails to correct this deficiency of claim 60, and is therefore also rejected under **35 USC 112**.

Similarly, **claims 65-68** contain the limitation *said second schedule information*. Claims 65-68 are multiply dependent on claims 55 or 56, respectively. There is insufficient antecedent basis for this limitation when claims 65-68 are dependent on claim 56.

Similarly, the Examiner notes that **claims 78, 79 and 84-88** are rejected for similar antecedent issues concerning the limitations *said third schedule information* and *said second schedule information*.

**Claims 64 and 84** contain the limitation *prefixed duration of time*. A "prefix" is an element placed at the beginning of a word to alter its meaning (Online Compact English Dictionary). It is unclear what the Applicant is intending to convey with the limitation *prefixed duration of time*. For purposes of examination, *prefixed duration of time* is interpreted to mean ~~*prefixed*~~ *predetermined* *duration of time*.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. **Claims 55-82, 85-88 and 90-108** are rejected under 35 U.S.C. 102(b) as being anticipated by Kehr, et al. (U.S. Patent Number 5,954,641), hereinafter Kehr.

As per **claim 55**, Kehr discloses a device comprising:

- *schedule storage means for storing a first schedule information for said living-body information terminal to detect a health condition information of said user or to issue an action direction to said user to take an action (see at least Kehr, Fig. 3 and 7(a-e) and corresponding text),*
  - *and for storing a second schedule information to be executed by said living-body information terminal in response to an execution result of said living-body information terminal following said first schedule information.*

See at least Kehr, Fig. 7(a-e) and corresponding text. The Examiner notes that *schedule information* would include a time that an action is scheduled for.

- *communication means for reading said first schedule information from said schedule storage means, and for transmitting said first schedule information to said living-body information terminal, said living-body information terminal adapted to execute said first schedule information (see at least Kehr, Fig. 7(a-e) and corresponding text);*
- *detection means for detecting said execution result of said living-body information terminal following said first schedule information from data transmitted from said living-body information terminal (see at least Kehr, Fig. 7(a-e) and corresponding text); and*
- *schedule updating means for generating said second schedule information in response to said execution result detected by said detection means (see at least Kehr, Fig. 7(a-e) and corresponding text).*

As per **claim 56**, Kehr discloses a device comprising:

- *schedule storage means for storing a first schedule information for said living-body information terminal to detect a health condition information of said user or to issue an action direction to said user to take an action, and for storing a third schedule information to be executed by said living-body information terminal (see at least Kehr, Fig. 3 and Fig. 7(a-e) and corresponding text);*
- *communication means for reading said first schedule information from said schedule storage means, and for transmitting said first schedule information to*

*said living-body information terminal, said living-body information terminal adapted to execute said first schedule information. See at least Kehr, Fig. 7(a-e) and corresponding text. The Examiner notes that schedule information would include a time that an action is scheduled for.*

- *reception means for receiving said direction of said external input (see at least Kehr, Fig. 7(a-e) and corresponding text); and*
- *schedule updating means for generating said third schedule information in response to said direction received by said reception means, said third schedule information transmitted to said living-body information terminal by said communication means (see at least Kehr, Fig. 7(a-e) and corresponding text).*

As per **claim 57**, Kehr discloses the method of claim 56, detailed above. Kehr also discloses a device further comprising:

- *detection means for detecting an execution result of said living-body information terminal following said third schedule information, from data transmitted from said living-body information terminal (see at least Kehr, Fig. 7(a-e) and corresponding text), and*
- *wherein said schedule updating means generates a new schedule information in response to said execution result detected by said detection means (see at least Kehr, Fig. 7(a-e) and corresponding text).*

As per **claim 58**, Kehr discloses the method of claim 55 or 57, detailed above. Kehr also discloses a device further comprising *wherein said detection means is further adapted to detect whether or not said action was executed by said user* (see at least Kehr, Fig. 7(a-e) and corresponding text).

As per **claim 59**, Kehr discloses the method of claim 58, detailed above. Kehr also discloses a device *wherein said detection means is further adapted to detect the time of when said action was executed by said user* (see at least Kehr, Fig. 7(a-e) and corresponding text).

As per **claim 60**, Kehr discloses the method of claim 55 or 57, detailed above. Kehr also discloses a device *wherein said detection means is further adapted to detect said health condition information resulting from said living-body information terminal following said first schedule information or said third schedule information*. See at least Kehr, Fig. 7(a-e) and corresponding text. The Examiner notes that the detection of the user responding to the directions of the device would be *health condition information*.

As per **claim 61**, Kehr discloses the method of claim 60, detailed above. Kehr also discloses a device *wherein said detection means is further adapted to detect the time of when said health condition information is detected* (see at least Kehr, Fig. 7(a-e) and corresponding text).

As per **claim 62**, Kehr discloses the method of claim 55 or 57, detailed above. Kehr also discloses a device *wherein said detection means is further adapted to detect an input information from an input means for inputting said input information disposed on said living-body information terminal* (see at least Kehr, Fig. 7(a-e) and corresponding text).

As per **claim 63**, Kehr discloses the method of claim 62, detailed above. Kehr also discloses a device *wherein said detection means is further adapted to detect the time of when said input information is detected* (see at least Kehr, Fig. 7(a-e) and corresponding text).

As per **claim 64**, Kehr discloses the method of claim 55 or 57, detailed above. Kehr also discloses a device *wherein said detection means is adapted to determine whether or not said action is completed by said user within a prefixed duration of time* (see at least Kehr, Fig. 7(a-e) and corresponding text).

As per **claim 65**, Kehr discloses the method of claim 55 or 56, detailed above. Kehr also discloses a device *wherein said schedule updating means is adapted to instruct said living-body information terminal to follow said first schedule information when said second schedule information or said third schedule information is completed* (see at



least Kehr, Fig. 7(a-e) and corresponding text).

As per **claim 66**, Kehr discloses the method of claim 55 or 56, detailed above. Kehr also discloses a device *wherein said schedule updating means is further adapted to transmit a unique identification information associated with each of said first schedule information, said second schedule information and said third schedule information when said living-body information terminal is instructed to follow one of said first schedule information, said second schedule information and third schedule information* (see at least Kehr, Fig. 7(b-d) where the medication to be taken is described as "Demerol 100 mg").

As per **claim 67**, Kehr discloses the method of claim 55 or 56, detailed above. Kehr also discloses a device further comprising:

- *wherein said first schedule information, said second schedule information and said third schedule information each comprises an action table information to detect the health condition information concerning said health condition of said user or to issue said action direction to said user to take said action regarding said medical treatment* (see at least Kehr, Fig. 7(a-e), and corresponding text),
- *and a judgment table information defining at least one operation for said medical treatment corresponding to said execution result* (see at least Kehr, Fig. 7(a-e) and corresponding text), *and*

- *wherein said schedule updating means changes the schedule information according to the execution result following said action table information based on information defined in said judgment table information (see at least Kehr, Fig. 7(a-e) and corresponding text, specifically in Col. 9, where the device reminds the patient to take missed medications at periodic intervals).*

As per **claim 68**, Kehr discloses the method of claim 67, detailed above. Kehr also discloses a device *wherein, said second schedule information or said third schedule information are information of changing a part of said first schedule information (see at least Kehr, Fig. 7(a-e) and corresponding text, specifically in Col. 9, where the device reminds the patient to take missed medications at periodic intervals).*

**Claims 69-82, 85-87 and 90-108** recite substantially similar limitations as disclosed by claims 55-68. Therefore claims 69-72 are rejected for at least the same reasons as claims 55-68, as indicated above. The Examiner notes that an *external direction* could be input of any kind from the user, or from a device programmer or manager.

As per **claim 88**, Kehr discloses the method of claim 86, discussed above. Kehr also discloses a device *further comprising judgment request means for requesting said*

*healthcare device to judge when said execution result of said schedule execution management means following said first schedule information, said second schedule information or said third schedule information is judged abnormal using said judgment table information (see at least Kehr, Fig. 7(a-e) and Fig. 11(a-c), and corresponding text).*

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. **Claims 83, 84 and 89** are rejected under 35 U.S.C. 103(a) as being obvious over Kehr in view of Warkentin et al., (U.S. Patent Number 6,824,512 B2), hereinafter Warkentin.

As per **claim 83**, Kehr discloses the method of claim 73 or 75, detailed above. Kehr fails to explicitly disclose, but Warkentin succeeds in disclosing a device *wherein said detection means is further adapted to detect one of or both of pulse rates and blood sugar value of said user, and the time when one of or both of said pulse rates and said blood sugar value are detected* (see at least , Fig. 2 and corresponding text). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Kehr with the communications system for an implantable device and a drug dispenser of Warkentin, because to do so would result in a system for managing

the administration of medication and medical treatment regimens that filled a need “to provide a pill dispenser that communicates with IMDs to implement an effective drug management system” (Warkentin, Col. 2, lines 22-24).

As per **claim 84**, Kehr/Warkentin disclose the method of claim 83, detailed above. Kehr also discloses a device *wherein said schedule updating means is adapted to instruct said living-body information terminal to follow said first schedule information when said second schedule information or said third schedule information is completed* (see at least Kehr, Fig. 7(a-e) and corresponding text).

As per **claim 89**, Kehr discloses a device *comprising means for transmitting a schedule information or an execution result of said schedule information ..., and further comprising means for displaying said schedule information or said execution result received ...* (see at least Kehr, Fig. 7(a-e) and corresponding text).

Kehr fails to explicitly disclose, but Warkentin succeeds in disclosing *at least one other living-body information terminal* (see at least Warkentin, Fig. 1 and corresponding text).

The motivation for making this modification of the teachings of Kehr is the same as that set forth, above, in the rejection of claim 83.

***Conclusion***

13. The cited but unused prior art is considered pertinent to the Application.
14. Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Mark Holcomb**, whose telephone number is **571.270.1382**.
15. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm.
16. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **Jerry O'Connor**, can be reached at **571.272.6787**.

/M. H./  
Examiner  
27 February 2010  
Art Unit 3686

/Gerald J. O'Connor/  
Supervisory Patent Examiner  
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